

Congress of the United States
Washington, DC 20510

May 6, 2014

The Honorable John S. Pistole
Administrator
Transportation Security Administration
601 South 12th Street
Arlington, VA 20598

Dear Administrator Pistole:

We are writing regarding your March 28, 2014 guidance on the revisions to the September 11th Security Fee, as modified by the Bipartisan Budget Act (P.L. 113-67). In that guidance, the Transportation Security Administration (TSA) outlined a new collection structure that appears to omit the total fee cap currently in place for all round-trip flights. As you are aware, the current round-trip cap is described in TSA's implementing regulations at 49 CFR § 1510.5, first promulgated in late 2001.

Section 601 of the BBA amends 49 U.S.C. § 44940 to simplify the September 11th Security Fee structure by requiring that airline passengers be charged on a per one-way trip basis rather than per enplanement. As the authors of this legislation in the House and Senate, our intent in drafting this provision was to help the federal government recover a greater share of TSA's operating costs, consistent with the manner in which the fee had operated previously, i.e. with a cap on a round-trip that was twice the maximum one-way fee. The Committee Print of the legislation, made public before House or Senate consideration, explained that "Section 601 simplifies the fee structure to a flat, \$5.60 per one-way trip, regardless of the number of enplanements."

There is nothing about the language modification that reflects an indication to change the overall cap for air transportation fees. In drafting the BBA, we did, however, indicate a desire to simplify the administration of the fee. The simplification was in terms of the "per enplanement" structure, not the removal of the cap.

Given that our change was intended to affect the "per enplanement" structure and not the cap, we are troubled by inclusion of "Example 2" in your agency's March 28, 2014 guidance. That example, which was similar to an example that appeared in an earlier November 7, 2006 TSA memo to docket TSA-2001-11120, reflects TSA's new interpretation and indicates an intent to remove the cap. Specifically, the 2006 document indicated that where an itinerary terminates at the point of origin (or co-terminal), if there are stop-overs, the trip was nonetheless subject to